NEW YORK HERRARD, THURSDAY, APRIL 16: 1968-TERPLE SHEET.

## WASHINGTON

THE IMPEACHMENT PRIAL

Admission of Documentary Evidence Presented by the President's Counsel.

Manager Butler Again Rebuked by Mr. Evarts.

## PROCEEDINGS OF CONGRESS.

Secrets.ry Forney's Accounts With the Senate to Be Investigated.

Dedication of the Lincoln Monument.

## THE IMPEACHMENT.

SPECIAL TELEGRAM TO THE HERALD.

WASHINGTON, April 15, 1868. The impeachment trial to-day was confined to the giving in of documentary evidence, the principal of which related to the practice of the government in the matter of making appointments and esuing commissions, regular and ad interim. The message of the President in reply to the resolution of the Senate of the 22d of February, protesting against the removal of Secretary Stanton, was reted as incompetent evidence by the Chief Justice. All the other documentary testimony was admitted.

All over town this evening a change of opinion seems to have taken place, and the acquittal of the President appears to be the prevailing impression. The way opinion changes on this question is quite

is is constantly up and down and down and up with the President and his radical opponents. People, even the few who generally have the opportunity for being well posted, are in a puzzle over the matter, not knowing for twenty-four hours what to think, and catching at every little straw that is blown about in their eagerness to reach some satisfactory conclusion. There never before was a question before the national legislature about which there existed so much uncertainty and mystery. One day the Senate seems all one way, and the next in a direction quite the opposite. But in all this strange dubity one thing may safely be taken as a guide, and that is the plotting and planning for the Presidential sucon. The result of the trial seems to hang more upon this than upon any conviction that may be ar ed at as to the guilt or innocence of the accused. week ago it seemed to be all fixed that the Presi

dent should be removed as a political necessity; but since Monday a hitch in the programme has occurred, and this hitch may be the saving of the offending anti-radical obstacle. General Butler, who has own his managerial colleagues into the shade since the hard work of the trial commenced, and who has made Bingham, Boutwell, Wilson, Williams, and Old kite, seems to have become the occasion of the hitch. Benjamin of Lowell has his one eye keenly after

the shades of private life in Tennessee. Senator Wade, in this event, will owe his elevation to the Chief Magistracy principally to the audacity and ingenuity of Butler, who fully understands his worth, and will not scruple to exact his full remuneration to the last penny. It is believed that Butler settled this point with Wade a few weeks ago, and that the latter, in patting on the back both Boutwell, of Masachusetts, and Senator Morgan, of New York, has only been playing a smart little game of his own to them quiet while there is danger. Boutand Morgan both yearn for McCulloch's

tions to succeed Secretary McCulloch in case Mr.

ohnson should be doomed to an early retirement to

quite as much as Butler, be it known : for his superior services, was to carry off the prize. Such was the writing in the bond; but now it appears General Grant's friends be arranged in case Wade gets in. If Wade lets Butler in, the latter will so manipulate as to secure a powerful influence for himself, and Grant's friends oresee trouble ahead through this arrangement.

while to remove President Johnson, through General Grant's aid, only to promote Butler's interests at the risk of the chances of the General-in-Chief. This new feature of the play behind the scenes is decidedly in favor of acquittal, notwithstanding the sound and fury before the footlights. The jealousies of the rival factions may result in breaking down the whole radical plot, and the true policy of the President is this policy he can smash up the deep laid plan for military dictatorship and perpetuation of radical rule foreshadowed in yesterday's despatches.

## PROCEEDINGS OF THE COURT.

Fifteenth Day. UNITED STATES SENATE CHAMBER, WASHINGTON, April 15, 1868.

The court was opened in due form, and the Man agers and members of the House were announced and took their places. Messrs. Stevens and Williams were absent at the opening, but appeared shortly afterward. Mr. Stanbery was also absent. PROPOSED AMENDMENT OF THE RULES.

After the journal was read the CHIEF JUSTICE stated the question to be on the order of Senator Summer, submitted yesterday, which was read, as

ordered, that it answer to the motion of the Managers, under the rule limiting the arguments to two on a side, unless otherwise ordered, such other Managers and counsel as choose may print and file arguments at any time before the argument of the closing Managers.

Senator EDMUNDS—I move to amend the order so

that it will read "may print and file arguments at any time before the argument of the opening Manager shall be concluded, in order that the counsel for the defence may see it and reply to it."

Senator SUMNER-I have no objection to that. The order as amended was read.

Mr. Evants-Mr. Chief Justice, may I be allowed to ask a question? The amendment offered and accepted places, I suppose, the proper restriction upon the arguments to be filed on the part of the Man-

Mr. Evants (in a louder tone)-The restriction proposed to be placed on this liberty by the amendment puts the matter in a proper basis, as I suppose, as regards the printed briefs that may be put in on the part of the Managers—that is, that they shall be filed before we make our reply. On our part it would be proper that we should have the opportunity to fill the brief at any time before the closing Manager makes his reply, so that we may have an opportunity of replying in our brief to that of the

Managers.
Mr. Bingham-Mr. President, I desire to say that it would seem that if the order is made as it is suggested, additional arguments made by the counsel in behalf of the President need not be filed until the close of the arguments made orally to the Senate. The Managers, on behalf of the people, would have no opportunity to see these arguments. I would ask the Senate to consider whether it is right to give the counsel for the President an opportunity to review and to reply to the arguments of the counsel for the people before any argument whatever may be filed fier on behalf of the President.

Mr. Evarts—Undoubtedly there are inconveniences in this enlargement of the rule, however applied; but there seems to be a propriety in requiring the Managers to file their arguments before the reply of the counsel for the President. The same rule would the counsel for the President. The same rule would the counsel for the President. The same rule would the resolution was placed before the removal of Mr. Stanton, which took place before the President. The same rule would the resolution was placed before the resolution was placed before the resolution was placed before the removal of Mr. Stanton, which took place before the resolution was placed before the removal of Mr. Stanton, which took place before the resolution was placed before the resolution. gested, additional arguments made by the counsel in behalf of the President need not be filed until the close of the arguments made orally to the Senate.

would be applied to the Manager of the impeach-ment, or they are not required to file the sirs except at the very moment that they close the, oral argument. and then we are obliged to comprence our oral argu-

making some remarks in an inaudible tone until ad-monished by Senators to speak louder, proceeded as follows:—In consequence of the imputation made by the Managers that we desired unnecessarily to con-sume the time of the court, those of us who, under this arrangement had not intended to argue the case did not intend, either by ourselves or by others, to make any application to the Senate for an enlargement of the rule; but since that application has been made on the | ar. of the Managers I desire to say to the Senate that if we are permitted to argue at all I think it would be more fair to the two counus to make an extemporaneous argument before the Senate. We have not made any preparation in view of the written arguments whatever; we supposed that Senate. We have not made any preparation in view of the written arguments whatever; we supposed that the Manayers on the part of the House, who have had this subject before them for a much longer period than we have, are more familiar with it and are better prepared to make written arguments; so that if this rule be extended we respectfully ask the Senate to allow us to address the Senate in such a mode, either oral or written, as we desire. I do not expect to be able to interest the Senate as much as the learned gentleman to whom the management of the case has hitherto been confided on the part of the President; and as I have practised my profession in the town of his domicile for the last thirty years, and as he has thought proper to ask my services in his behalf, and as I fully concur with him in the leading measures of his administration, I desire, if I may be heard at all, to be heard in the manner which I have suggested.

Senator CONNESS made a motion in writing to strike out all after the word "ordered" and insert the following as a substitute:—

That the twenty-first rule shall be so amended so as to allow as many of the Managers and of the counself or the President.

That the twenty-first rule shall be so amended so as to allow as many of the Managers and of the counsel for the President to speak on the final argument as shall; choose to do so, providen that not more than four days on each side shall be al-lowed; but the Managers shall make the opening and the closing argument. Senator Drake asked the yeas and nays, and the substitute was lost by the following vote:—

Substitute was lost by the following vote:—
YFAs—Senators Cameron, Conness, Cragin, Dixon, Doolittle, Fowler, Harlan, Henderson, Hendricks, McCreery, Patterson of Tenn, Ramsey, Sherman, Stewart, Trumbull, Van
Winkis, Wiley, Wilson, Yates—18.
NAYS—Senators Anthony, Buckalew, Cattell, Chandler,
Cole, Conking, Davis, Drake, Edmunds, Ferry, Frelinghuysen, Howard, Howe, Johnson, Morgan, Morrill of Me.,
Morrill of Vt., Morton, Patterson of X-H., Pomeroy, Ress,
Saulsbury, Sumner, Thayer, Tipton, Vickers and Willams—24.

hams—2.L

The question was stated to be on the order.

Senator Doolittle—Mr. Chief Justice, I prefer oral arguments to printed ones, and I submit the following, notwithstanding that there are but four—(cries of "Order, order")—of the counsel for the President and six of the Managers of the House. ("Order, order") I have sent to the Chair an order which I will ask to have read.

It was read as follows:—

Strike out all after the word "ordered" and insert, "That upon the final argument the Managers of the House open, two of the counsel for the respondent reply, then two of the Managers speak, and they to be followed by the two other counsel for the respondent, and they in turn to be followed by the other two Managers of the House, who shall conclude the argument."

Mr. Drake—Mr. President, I move the indefinite postponement of the whole proposition, together with the subject.

Mr. Sumner called for the yeas and nays, and the motion was carried by the following vote:— Mr. SUMNER called for the yeas and nays, and the motion was carried by the following vote:—
YEAS—Senators Anthony, Buckalew, Chandler, Cole, Conkling, Conness, Corbett, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Grimes, Harlan, Henderson, Hendricks, Howard, Howe, Johnson, Morgan, Morrill of Me., Morrill of V., Morton, Patterson of N. H., Youneroy, Ross, Sauisbury, Sherman, Stewart, Thayer, Tpion, Williams and Yates—31.
Nays—Senators Cameron, Cattell, Cragin, Dooistic, Fowner, Freinbuysen, McCreery, Patterson of Tenn., Aamey, Sumner, Trumbuil, Van Winkle, Vickers, Willey and Wilson—15.

So the subject was indefinitely postponed.

Senator FERRY offered the following order:
Ordered, That the twelfth rule be so amended as that the hour of the day at which the Senate shall sit upon the trial now pending shall be, unless otherwise ordered, leven o'clock in the forenoon, and that there shall be a recess of thirty minutes each day, commencing at two o'clock P. M.

The order was relieved by the following.

The order was rejected by the following vote:-

and Wilson—94.

NAYa—Senators Anthony, Bayard, Buckalew, Davis,
NAYa—Senators Anthony, Bayard, Buckalew, Davis,
Naya—Senators Anthony, Bayard, Buckalew, Davis,
Henderson, Liendricks, Johnson, McCreery, Morton, Patterson of N. H., Patterson of Tenn, Pomeroy, Ross. Saulabury,
Tipton, Trumbuli, Van Winkle, Vickers, Willey and Yates—93. The CHIEF JUSTICE directed the counsel to proceed

DOCUMENTARY EVIDENCE.

The CHIEF JUSTICE directed the counsel to proceed with the case.

Mr. Evalurs—Mr. President and Senators:—
Although I am not able to announce, as I should be very glad to do, that our associate, Mr. Stanbery, according to the hopes we entertained, has been able to come out to day, yet I am happy to say that he is quite convalescent and cannot be long kept from giving the case his attention. Under these circumstances, and from a desire to do whatever we may properly do in advancing the trial of this cause, we propose to proceed to put in documentary evidence, hoping that we will not be called upon to put in any oral testimony until to morrow.

Mr. Curris said he would have to call upon the Executive Clerk of the Senate to produce the nomination of Thomas Ewing, Sr., of Ohlo, to the office of Secretary of War on the 21st of February, 1868.

The CHIEF JUSTICE was understood to express a doubt as to whether, under the rules of the Senate, nominations were not under the injunction of secrecy.

crecy.
Senator EDMUNDS asked the unanimous consent of the Senate to show that the fact of nominations being made was considered not subjected to the in-junction of secrecy.

Mr. Curtis said he was so instructed, and there-fore he had supposed that no motion to remove the injunction of secrecy was necessary.

Senator Sherman said that if a motion was con-

Senator Sherman said that if a motion was considered necessary he would move that the Executive Clerk of the Senate be sworn as a witness in the case. The motion was agreed to, and the Executive Clerk of the Senate, Dewitt C. Clarke, was sworn and examined by Mr. Curtis as follows:—

Q. State what document you have before you? A. have the original nomination by the President of Thomas Ewing, Sr., as Secretary of the Department of War.

Mr. Curtis—Please to read it.

Witness read as follows:—

Mr. CURTIS—Please to read it.

Witness read as follows:—

To the Seratro of the United States:—
1 nominate Thomas Ewing, Sr., of Ohio, to be Secretary for the Department of War.
Washington, D. C., Feb 21, 1888.
Q. On what day was that actually received by your A. On the 22d of February.
Mr. CURTIS said—I now desire to put in evidence a copy of the message from the President of the United States to the Senate of the United States, which bears date of the 24th of February, 1868. I have a printed copy, which is an authorized copy, and I suppose it will not be objected to.
Mr. BUTLER—The article of proof is not objected to, but the proof itself is objected to for a very plating reason. This message was sent after the President was impeached by the House, and of course his declarations put in, or attempted to be put in, after the impeachment, whether directed to the Senate or to anybody else, cannot be given in evidence. The exact order of time may not be in the minds of Senators, and I will therefore state it. On the 21st of February a resolution was ofered in the House looking to the impeachment of the President, and it was referred to a committee. On the 22d of February the committee reported and the impeachment was actually voted. Then intervened Sunday, the 23d. Any message sent on the 24th of February must have been known to the President to be after his impeachment.
Mr. CURTIS—It will be recollected that the honora-

thany voted. Then intervened sunday, the 20d. Any message sent on the 24th of February must have been known to the President to be after his impeachment.

Mr. Curits—It will be recollected that the honorable Managers put in evidence a resolution of the senate, to which this message is a response, so that the question is whether the honorable Managers can put in evidence a resolve of the Senate transmitted to the Senate of the United States with reference to the removal of Mr. Stanton, and refuse to receive a reply which the President made to that resolve.

Mr. BULLER—I have only to say that this is an argument to prejudice and not to law. Will my learned friends opposite dare to say that they have read of a case when after indictment of the criminal, the respondent was allowed to put in evidence his statement of his own defence? If so when does that right cease? We put in the resolution referred to because it is a part of the transaction of Mr. Stanton—It was made before the impeachment was determined upon—and now we are asked to admit the criminal's declarations made after that day. I only ask the Senate to consider it as a precedent hereafter, as well as being a great wrong apon the people, that after indictment, after impeachment, the President can send in a message which shall be taken as evidence.

Mr. Evaltrs—The learned Managers ask whether we dare to do something. We have not been in the habit of considering the measure for the conducting of ferensio disputation to be a question of daring; we are not in the habit of applying such epithets to opponents, nor hitherto in the habit of receiving them from them. The measure of duty of counsel is the measure of daring, if for no other reason than this: that on rules of laws, of last and evidence we may perhaps expect some superiority, but on measures of daring. (Laughter.) Is the learned Manager entirely right in saying that the impeachment was voted on the 22d of February? The 22d was Saturday, and, mnless I am mistaken, a vote was not taken and the supplemen mr. Burner-The vote was taken on Saturday, the

Senate, it is not easy to see. It was, "coveyer

President to put an writing what they proposed to prove.

While they were engaged in doing so Mr. Butler said that to prevent mistake he had sand the Clerk of the House for the record of the proceedings on impeachment. Mr. McPherson, Celk of the House for the House of the Clerk of the House for the House for the Clerk of the House for the House for the Clerk of the House for the Clerk of the House for the Clerk of the House of Representatives, as appears by the journal now furnished, voted on the 22d of Pebruary that Andrew Johnson be impeached of high crimes and misdemeanors. On the day preceding the 22d of February it appears that the Senate of the United States proceeded to consider another message of the Fresident, in which from the Department of War Edwin M. Stanton, then Secretary of War by previous action of the Senate. The Senate refused to concur in the suspension, refused to acquiesce in the reasons assigned by the President, under the Tenure of Office act, having given the President notice thereof. The President proceeds thereupon to remove him and to appoint Lorenzo Thomas Secretary of War ad interim, in direct contravention of the express words of the act itself, and of the action of the Sernate. The record shows that on the 21st of February, 1898, the Senate of the United States passed a resolution reciting the action of the Seretary of War ad interim, That was the action of the President on the high of the 21st of Pebruary, 1898, the Senate of the United States passed a resolution reciting that under the constitution and laws of the United States passed a resolution reciting that of the 21st of February, 1898, the Senate of the United States passed a resolution reciting the orde

whereof he stands accused. Mr. William H. McDonald, Chief Clerk of the Senate, testified, on page 148, "An attested copy of the foregoing resolution was delivered by me into the hands of the President of the United States, at his office in the Executive Mansion, about ten o'clock P. M. on the 21st of Pebruary, 1868." And on the 24th of February, three days afterwards, the President volunteers a written declaration, which his counsel now propose to make evidence in his behalf before this tribunal of justice. Of course it is evidence for no purpose whatever except for the purpose of exculpating him of the criminal accusation preferred against him. Senators will bear with me while I make one further remark. The proposition is to introduce this whole message—not simply what the President says for himself, not simply the argument which he chooses to present in the form of a written declaration in vindication of his criminal conduct, but the declaration of third persons. The Senate is asked to accept this, too, as evidence on the trial of the accused—the declaration of the third persons, whom he calls his constitutional advisers. He states their opinions without giving their language; he gives their conclusions, and those conclusions are to be thrown before the Senate as part of the evidence. I beg leave to say here, in the presence of the Senate, that there is no colorable excuse for the President or for his counsel coming before the Senate to say that he has any right to attempt to shelter himself from a violation of the laws of his Country under the opinion of any member of his Cabinet. The constitution never vested his Cabinet. The constitution never vested his Cabinet counsellors with any such authority; it never vested the President with authority to suspend the laws, or to violate the laws or to make appointments in direct contravention of the laws and in defiance of the sinal action of the Senate, acting in express obedience to the law. There is no colorable excuse for these proceedings. I say it with all res

me?
Mr. Evants was proceeding with his remarks.
Mr. Bingham—The gentleman misrepresents me.
Mr. Evants—I do not misrepresent the honorable.

Manager.
Mr. Bingham-I did not say that there was no

Mr. Evants—I do not misrepresent the nonorane Manager.

Mr. Bingham—I did not say that there was no color of excuse for the President's attempt to defend himself or for his counsel's attempt to defend him, but that there was no color of excuse for offering this testimony.

Mr. Evants—It all comes to the single thing. Everything that is admitted on our view or line of subject in controversy, except it conform to the preliminary view which the learned Managers choose to throw down, is regarded as wholly outside of the color of law and of right on the part of the President, and his counsel, and it is so repeatedly charged. Now, if the crime was completed on the rist—which is not only the whole basis of this argument of the learned Manager, but of every other argument on the evidence which I had the konor of hearing from him—i should like to know what application and relevancy the resolution had which was passed by the Senate on the rist of Pebruary after the act of the President had been completed, and after the act had been communicated to the Senate. There can be no single principle of the law of evidence on which that view can be proved on behalf of the Managers, and on which the reply of the President can be excluded. What would be thought in a criminal prosecution of the prasecutor giving in evidence what a magistrate of a sherin had said then and there in reply. The only possible argument by which what was said to him could be given in evidence is that, unreplied to, it might be construed into an admission or submission. If the sherin had said then and there in reply. The only possible argument by which what was said to him could be given in evidence. It was my watch, and I took it because it was mile!—could not be given in evidence. And then should be precisely the same proposition which it he are that outled be twen the President and the senate. The being applied here by the learned Manager to this action had between the President and the senate.

appropriate Blustration. I take the Blustratiween found arasist him, a written answer, an all as in the selected that that answer may be read you only that, but be goes on to put in what every actively exact, or what four or live other mon such, and cannes that that may be given in evidence. If it is destrous to know what the Cahnet said let the members of the Cabnet be brought here and let us ress-examine them and and out what they meant when they gave this advice, and how they came to give it, and under what pressures. But at present we do not want the President to put in the advice of the Cabin 1.

Mr. EV-437.—Mr. Chief Justice and Senators, every case is to be regarded according to its erreministantics, and I you will salge whether a communication from the Senate to the President on the 22d of February could well have been answered sooner than the 23th of February.

All the properties of the communicated of the case of

sion should become absolute or should be rejected. But here is a man defining the action of the Senate, desying the express letter of the law, that the Secretary of War, in whose suspension the Senate had refused to concur, should forthwith resume his functions; proceeding with his conspiracy with Thomas to confer the functions of that onice on another, regardless of the law regulating the tenure of odice, regardless of the taw regulating the tenure can people; and he winds up the farce by coming before the Senate with his written declaration, which is of no higher authority than his oral declarations made three days after the fact, and he asks the Senate to consider that as evidence.

The CRIEF JUSTICE—Senators, there is no branch of the law where there is more difficulty to lay down precise rules than that which regards the intent with which an act is done. In the present case it appears that the Senate, on the 21st of February, passed a resolution, which I will take the liberty of reading:—Whereas the Senate have received and considered the commencation of the Present case in a present of the Present case in the commencation of the Present case in the present case it appears that the Senate have received and considered the commencation of the Present case the present case in the present case in the present case in the commencation of the Present case in the pre

that the Senate, on the 21st of Pebruary, passed a resolution, which I will take the liberty of reading:—Whereas the Senate have received and considered the communication of the President stating that he had removed E. N. Stanton, Secretary of War, and had designated the Adjutant General of the Army to act Secretary of War and interim; therefore

Resolved, by the Senate of the United States, the President has no power to remove the Secretary of War and to designate on the constitution and laws of the United States, the President has no power to remove the Secretary of War and to designate any other officer to perform the duties of that office of interim.

That resolution was adopted on the 21st of Pebruary, and was served on the evening of the same day. The message now proposed to be offered in evidence was sent to the Senate on the 24th of February. It does not appear to the Chief Justice that the resolution of the Senate called for an answer, and therefore the Chief Justice must regard the message of the 24th of February as a vindication of the President's act addressed to the Senate. It does not appear to the Chief Justice that that comes within any of the rules of evidence which would justify its being received in evidence on this trial. The Chief Justice, however, will take the views of the Senate in regard to it.

No vote being called for the Chief Justice ruled the evidence inadmissible.

Mr. CURTIS then offered to put in evidence a tabular statement, compiled at the office of the Attorney General, containing a list of executive officers of the United States, with their statutory terms or act of Congress creating the office, the name or title of the office, showing whether the tenure was for a definite erm, at the pleasure of the President, or for a term indefinite. He said that or course it was not strictly evidence; but it had been compiled as a matter of convenience, and he desired to have it printed, so that it might be used in argument by counsel on both sides.

After some objection and interlocutor

that it might be used in argument by counsel on both sides.

After some objection and interlocutory remarks by Mr. Butler the paper was, on motion of Senator Trushull, ordered to be printed as a part of the proceedings.

Mr. Curis then offered in evidence papers in the case of the removal of Mr. Pickering by President Adams, remarking that it was substantially the same as had been put in evidence by Mr. Butler, except that it was more formal.

The witness (Mr. Dewitt C. Clarke) here desired to make a correction of his testimony to the effect that the message of the President was not delivered to him on the 22d of February, but on the 24th of February, but that it was brought up by Mr. Moore, the President's private secretary, on the 22d of February, but that the Senate not being in Session, Mr. Moore returned with it to the Executive Mansion, and brought it back again on the 24th.

Mr. Curis—Do I understand your statement now to be that Colonel Moore brought it and delivered it to you on the 22d of February? A. He brought it up on the 22d; he did not deliver it to me, as the Senate was not in session.

Q. He took it away and brought it back on the

on the End; he did not deliver it to me, as the Senate was not in Session.

Q. He took it away and brought it back on the 24th? A. Yes.

Q. He took it away and brought it back on the 24th? A. Yes.

Mr. BUTLER.—How did you know that he brought it here on the 22d? A. Only by information from Colonel Moore.

Q. Then you have been telling us what Colonel Moore told you? A. That is all.

Mr. BUTLER.—Then we do not want anything more of what Colonel Moore told you.
TESTIMONY OF THE PRESIDENT'S PRIVATE SECRETARY.
William G. Moore, the President's private secretary, was recalled and examined as follows:—

Mr. CURTIS—What is the document that you hold in your hand? A. The nomination of Thomas Ewing, senior, of Ohio, as Secretary for the Department of War.

Q. Did you receive that from the President of the United States? A. I did.

Q. on what day? A. On the 22d of February, 1868.

Q. On what day? A. I did.
Q. On what day? A. On the 22d of February, 1868.
Q. About what hour of the day? A. I think it was twelve o'clock.
And before what hour? A. Before one o'clock. A. It was, q. What did you do with it? A. By direction of the President I brought it to the Capitol to present it

A. It was the only message that was to go that day. I gave it to the Clerk, who seared it and handed it to me.

Q. Did you unseal it or examine it till you delivered it on the 24th? A. Not to my recollection.

Q. Did you show it to anybody here on the 22d?

A. No, Sir; it was scaled.

Q. Have you spoken this morning with Mr. Clark on the subject? A. He asked me on what date! had delivered the message, and I told him it was the 24th.

Mr. Betler.—That is all.

Mr. Curris then put in evidence, without objection, certified copies of the appointment by President Tyler on the 29th of February, 18t4, of John Noison, Attorney General, to discharge the duties of Secretary of State ad biterin until a successor to Mr. Upsing should be appointed, and of the subsequent confirmation by the Senate on March 8, 18t4, of John C. Calhoun to that office; also the appointment by President Fillmore on July 23, 1850, of Winneld Scott as Secretary of War ad interim, in place of George W. Crawford, and of the confirmation by the Senate on August 15, 1850, of Charles M. Conrad as Secretary of War.

Mr. Curris also offered in evidence the appointment by Mr. Buchanan in January, 1861, of Moses Kelley as Secretary of the Interior.

Mr. Butler inquired whether counsel had any record of what had become of the Secretary of the Interior at that time—whether he had resigned, or had run away, or what? (Laughter.)

Mr. Curris said he was not informed, and could not speak either from the record or from recollection.

Mr. Curris aid he was not informed, and could not speak either from the record or from recollection.

Mr. Curris aid he was not informed, and could not speak either from the record or from recollection and run away, or what? (Laughter.)

Mr. Curris aid he was not informed, and could not speak either from the record or from recollection.

Mr. Curris aid he was not informed, and could not speak either from the record or from recollection of the Interior.

Mr. Burrier objected to put in evidence the letter.

of the Interior. Mr. Curtis also offered in evidence a document relating to the removal from office of the Collector and Appraiser of Merchandise in Philadelphila.

Mr. BUTLER objected to put in evidence the letter of removal by McClintock Young, Acting Secretary of the Treasury.

Mr. Curtis inquired whether the Manager wanted evidence that McClintock Young was Acting Secretary of the Treasury?

Mr. BUTLER replied that he did not.

Mr. Curtis remarked that the documents were certified by the Secretary of the Treasury as coming from the records of that department. They were offered in evidence to show the fact of the removal by Mr. Young, who stated that it was by direction of the President.

Mr. BUTLER—The difficulty is not removed. It is an attempt by Mr. McClintock Young, admitted to have been Acting Secretary of the Treasury, to remove officers by reciting that he is directed by the President so to do. If this is evidence we have got to go into the question of the right of Mr. Young to do this act, and whether an appraiser is one of the Interior officers whom the Secretary of the Treasury may remove or whom the President may remove without the advice and consent of the Senate. It is not an act of the President in removing the head of a department, and it is remarkable as the only case to be found to warrant any such removal. If it is evidence at all, it only proves the rule by the exception.

Mr. Curtis—I understand the Manager to admit that Mr. Young was Acting Secretary of the Treasury. Mr. Butler.—Yes, sir.

Mr. Curtis—I take this act of his, therefore, as having been done by the Secretary of the President in the asys he proceeded by order of the President to show that he acts by order of the President. No such evidence was ever given. No record is ever made of the directions which the President. No such evidence was ever given. No record is ever made of the directions which the President all courts and all bodies presume that he tells the truth.

The CHIEF JUSTICE ruled the act of the Secretary of the Tr

mitted.

Mr. Curris—I now offer in evidence a document from the Navy Department.

RECESS.

While the document was being examined by Mr.

While the document was being examined by Mr. Butler,
Senator Conkling moved that the court take a recess for fifteen minutes.
Senator Sumner moved as an amendment that business shall be resumed forthwith after the expiration of the fifteen minutes.
The question was put on Senator Sumner's amendment and it was rejected.
The court then, at fifteen minutes past two o'clock, took a recess for fifteen minutes.
Upon the reassembling of the court Mr. Butler objected to the admission of the document. Mr. Butler proceeded to state the ground of his objection. He said the certificate was not a copy of a record from the Navy Department, but simply that "the annexed is a true statement from the records of this department," under the head of "Memoranda." it was a statement made up by the Chief Clerk of the

It was a statement made up by the chear exceed or volunteered to furnish, leaving out many things of the case.

Navy Department of matters that he had been asked or volunteered to furnish, leaving out many things of the case on the case of the production of the case of

O. About what throughly on arrive here? A. I cannot state definitely, but I presume it was about a quarter part one management of the state definitely, but I presume it was about a quarter part one management of the state of t

given in full, so far as they relate to any particular question?

Mr. Butler replied in the affirmative.
Mr. Conkling sent the following question to the Chair—"Do the counsel for the respondent ray upon any statute other than that referred to?"

Mr. Curris said they did not mean that any officer was authorized to state what he pleased as evidence. They did not offer these documents as copies of records relating to the cases named in the documents themselves. They were documents of the same character as that which the Managers had put in.

same character as that which the Managers had put in.

Senator EDMUNDS asked whether the evidence was offered as touching any question or final conclusion of fact, or merely as giving the Senate the history of the practice under consideration?

Mr. Curris—Entirely for the last purpose.

Mr. BUTLER said if this evidence did not go to any issue of fact the Managers would have no objection.

Mr. Curris would say, lest there should be misapprehension, that it went to matters of practice under the law. prehension, that it went to the law.

Mr. BUTLER—Well, if it goes to matters of facts went proper evidence.

prehension, that it went to matters of practice under the law.

Mr. BUTLER—Well, if it goes to matters of facts we object that it is not proper evidence.

Mr. EVARTS thought it might be of service to call attention to the record in regard to the letter of the Secretary of State put in evidence by the Managers. He read the letter heretofore published in regard to the appointment of heads of departments.

Senator Howard submitted the following question:—"Do the counsel regard the memoranda as legal evidence of this practice of the government and all they offer as such?"

Mr. Curits replied that the documents were not full copies of any record, and were not, therefore, strictly legal evidence for any purpose; they were extracts of evidence from the records. By way of illustration he read as follows:—"Isaac Henderson was, by direction of the President, removed from the office of Navy Agent at New York, and instructed to transfer to Paymaster John B. Gibson, of the United States Navy, all the public funds and other property in his charge." That was not offered to prove the merits and causes of the removal, but simply to show the practice of the government under the laws, instead of putting in the whole of the documents in the case. They had taken the only fact of any importance to the inquiry. Should the Senate decide to adhere to the technical rule of evidence the counsel for the President must go to the records and have them copied in full.

Mr. BOLTWELL, of the Managers, said that if the counsel did not prove the document it did not prove any record. The first thing to prove a practice was to prove one or more cases under it. The vital objection to this evidence was that it related to a class of officers—navy agents—who were then and are appointed under a special provision of the law creating the office, and which takes them entirely out of the line of precedents for the purposes of this trial. Naval officers were created under a statute of the year 1820, in which a tenure of office was established for the office

lead to that provision being made, but the practice under it could not in any degree enlighten this tribunal upon the issues upon which it is called upon to pass. The counsel could see that it was no evidence in regard to the practice relative to removals not made under that statute.

Mr. CURTIS said the counsel might have been under a misapprehension respecting the views of the Managers in conducting this prosecution, but they had supposed the Managers meant to attempt to maintain that even if Stanton at the time when he was removed held at the pleasure of the President, even if ee was not within the Tenure of Office act, inasmuch as the Senate was in session, it was not competent for the President to remove him, and that although Mr. Stanton might have been removed, that the President, being within the Tenure of Office act, his place could not be even temporarily supplied by an order of General Thomas, the Senate being in session. It was offered to show that, whether the Senate was in session or not, the President could make an ad interim appointment, if the Managers would agree that if Stanton was not within the Tenure of Office act the President might remove him during the session of the Senate, and might lawfully make an ad interim appointment, they (the counsel) did not desire to put in this evidence.

Senator Sherman—I would like to ask the counsel whether the papers now offered in evidence contain the date of the removal, but do not give us the date of the nomination.

Mr. CURTIS again read the case of the removal of I. Henderson by way of illustration, stating that it contained the date of the removal, but do not give us the date of the nomination.

Mr. CURTIS again read the case of the removal of I. Henderson by way of illustration, stating that it contained the date of the removal.

The CHIFF JUSTICE put the question to the Senate, stating that in his opinion the evidence was competent in substance. Whether it was so in form was for the Senate to decide.

The evidence was admitted by the following vote:—
YEAS—Senators Anthony, Bayard, Buckalew, Cole, Conkling, Corbett, Davis, Dixon, Doolittle, Edmands, Ferry, Fessenden, Fowier, Freilighussen, Grimes, Henderson, Hendricks, Howe, Johnson, McCreery, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Ross, Saulsbury, Sherman, Stewart, Summer, Trumbul, Van Winkle, Vickers, Willey, Wilson, Yates—58.
NAYS—Senators Cameron, Cattel, Chandler, Conness, Cragin, Drake, Harlan, Howard, Morgan, Nye. Pomeroy, Ramey, Thayer, Tipton, Williams—15.

By consent the documents were considered as read.
Mr. Curits—There is another document from the Navy Department which I suppose is not distinguishable from those which have just been admitted. It purports to be a list of civil officers appointed for four years under the statute of the loth of May, 1820, and removable from office at pleasure. With their removals are indicated the portions of the terms of their offices which have not expired. Then comes a list giving the name of the officer, the date of his general appointment and by whom removed, in tabular form.

Mr. BUTLER called attention to the fact that it dit not contain the statement whether the Senate was in session.

Mr. Curits—We shall get that in another form.

Mr. Butler cailed attention to the fact that it did not contain the statement whether the Senate was in session.

Mr. Curits—We shall get that in another form.

No objection being made the paper was admitted in evidence.

Mr. Curits producing further documents)—These are documents from the Department of State showing the removal of heads of departments, not only during the session of the Senate, but during recess, and covering all causes, the purpose being to show a practice of the government of the different cases, death, resignations, sickness, absence, removal. It differs from the schedule which has been put in by the learned Manager to cover the heads of departments only, because that applies only to removals during the session of the Senate. It includes them, but it includes a great-deal more matter.

Mr. Butler, in order, he said, to call the attention of the Senate to their incompetency, read several of the records, being the temporary appointments during the absence of incumbents. All, he said, were of that character, with two exceptions—of the treasury was appointed to act as Secretary of the Treasury was appointed to act as Secretary of the Treasury when that officers shall be absent. There were three cases, one in President Monroe's time, one in President Monroe's time, one in President Monroe's time, one in President fact the appointment was under time, all recting that the appointment was under the act of 1792. All the others were temporary, would the senate admit a ser es of acts done exactly in conform ty with the law of 1792 and 1790 as evidence in a case in violation of the act of March 2, 1987, and the act of February 20, 1863? Wonjat that the answe

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